

Assembly Bill No. 236

CHAPTER 348

An act to amend Section 2221 of, and to add Section 2232 to, the Business and Professions Code, relating to medicine.

[Approved by Governor September 11, 2003. Filed
with Secretary of State September 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 236, Bermudez. Physicians and surgeons.

The Medical Practice Act provides for the licensing and regulation of physicians and surgeons by the Medical Board of California.

This bill would prohibit any person from being licensed under that act who is required to register with the police as a sex offender, subject to an exception. The bill would require the board to promptly revoke the license of any person who is subject to or becomes subject to that registration requirement, subject to the same exception. The bill would authorize the revoked licensee, 5 years after the revocation and 3 years after termination of parole or probation, to petition the superior court for a license reinstatement hearing. The bill would require the petitioner to provide notice to the Attorney General and the board and would allow those parties to present argument at the hearing on the petition. The bill would provide that if the court finds that the individual no longer poses a possible risk to patients, the court shall order the Medical Board of California to reinstate the license, and if the court denies relief, the license revocation would remain in place. The bill would authorize the board to issue a probationary license to a person whose license has been revoked pursuant to these provisions subject to specified terms and conditions.

The people of the State of California do enact as follows:

SECTION 1. Section 2221 of the Business and Professions Code is amended to read:

2221. (a) The Division of Licensing may deny a physician's and surgeon's license to any applicant guilty of unprofessional conduct or of any cause that would subject a licensee to revocation or suspension of his or her license; or, the division in its sole discretion, may issue a probationary license to an applicant subject to terms and conditions, including, but not limited to, any of the following conditions of probation:

(1) Practice limited to a supervised, structured environment where the licensee's activities shall be supervised by another physician and surgeon.

(2) Total or partial restrictions on drug prescribing privileges for controlled substances.

(3) Continuing medical or psychiatric treatment.

(4) Ongoing participation in a specified rehabilitation program.

(5) Enrollment and successful completion of a clinical training program.

(6) Abstention from the use of alcohol or drugs.

(7) Restrictions against engaging in certain types of medical practice.

(8) Compliance with all provisions of this chapter.

(b) The Division of Licensing may modify or terminate the terms and conditions imposed on the probationary license upon receipt of a petition from the licensee.

(c) Enforcement and monitoring of the probationary conditions shall be under the jurisdiction of the Division of Medical Quality in conjunction with the administrative hearing procedures established pursuant to Sections 11371, 11372, 11373, and 11529 of the Government Code, and the review procedures set forth in Section 2335.

(d) The Division of Licensing shall deny a physician's and surgeon's license to an applicant who is required to register pursuant to Section 290 of the Penal Code. This subdivision does not apply to an applicant who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

SEC. 2. Section 2232 is added to the Business and Professions Code, to read:

2232. (a) (1) Except as provided in paragraph (2), the board shall promptly revoke the license of any person who is subject to or becomes subject to Section 290 of the Penal Code.

(2) This section shall not apply to a person who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code.

(b) (1) Five years after the effective date of the revocation and three years after successful discharge from parole, probation, or both parole and probation if under simultaneous supervision, an individual may petition the superior court in the county in which the individual has resided for, at minimum, five years prior to filing the petition to hold a hearing within one year of the date of the petition, in order for the court to determine whether the individual no longer poses a possible risk to patients. The individual shall provide notice of the petition to the



Attorney General and to the board at the time of its filing. The Attorney General and the board may present written and oral argument to the court on the merits of the petition.

(2) If the court finds that the individual no longer poses a possible risk to patients, and there are no other underlying reasons that the board pursued disciplinary action, the court shall order, in writing, the board to reinstate the individual's license within 180 days of the date of the order. The board may issue a probationary license to a person subject to this section subject to terms and conditions, including, but not limited to, any of the conditions of probation specified in Section 2221.

(3) If the court finds that the individual continues to pose a possible risk to patients, the court shall deny relief. The court's decision shall be binding on the individual and the medical board, and the individual is prohibited from filing a subsequent petition under this section based on the same conviction.

